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Attorneys for Plaintiff,
**CYNTHIA KAO, individually and
on behalf of those similarly situated**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CYNTHIA KAO, individually and on behalf of those similarly situated,

) Case No.:

) CLASS ACTION

{ COMPLAINT FOR DAMAGES FOR:

) (1) Violation of Consumer Legal Remedies Act

} (2) **Unlawful Business Practices in
Violation of California Business &
Professions Code §17200, et. seq.**

**(3) False & Misleading Advertising In
Violation of California Business &
Professions Code §17500, *et. seq.***

-) (4) Breach of Express Warranty
-) (5) Breach of Consumer Warranty Act

California Civil Code §1790, et, seq.

**(6) Violations of The Magnuson-Moss
Warranty Act**

) JURY TRIAL DEMANDED

1 Plaintiff CYNTHIA KAO, (hereinafter “Plaintiff”), on behalf of herself, and on
 2 behalf of all other similarly situated persons, allege the following facts and claims:

3 1. This consumer class action arises out of Defendant LG ELECTRONICS
 4 U.S.A, INC.’s (“Defendant”) misrepresentations through omission and failure to honor
 5 warranties with respect to Defendant’s LG’s refrigerator Model No. LFX31945ST,
 6 refrigerators with its Slim SpacePlus™ Ice System, and/or its Smart Cooling Plus
 7 System.

8 **JURISDICTION AND VENUE**

9 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)
 10 and 18 U.S.C. § 1965.

11 3. This Court has supplemental jurisdiction over Plaintiff’s state law claims
 12 pursuant to 28 U.S.C. § 1337(a) because those claims are so related to Plaintiffs’ federal
 13 claims that they form part of the same case or controversy between the parties.

14 **THE PARTIES**

15 4. Plaintiff Cynthia Kao is, and at all material time was, a citizen of California
 16 and resident in the county of Orange, California.

17 5. Defendant LG Electronics U.S.A., Inc. is a Delaware corporation with
 18 corporate offices at 1000 Sylvan Ave, Englewood Cliffs, NJ, 07632. Defendant
 19 maintains a website at <http://www.LG.com/us>.

20 **STATUTES OF LIMITATIONS**

21 6. Any applicable statutes of limitation have been tolled by Defendant’s
 22 continuing, knowing and active concealment of the facts alleged herein. Defendant has
 23 concealed material information from Plaintiff and the Class that is essential to the pursuit
 24 of their claims, despite Plaintiff’s and the Classes’ due diligence.

25 **INTRODUCTION**

26 7. Defendant is in the business of manufacturing, producing, distributing,
 27 and/or selling refrigerators throughout the United States under the brand name LG
 28 Electronics.

1 8. Defendant manufactured, produced and/or distributed refrigerators for sale
 2 by its network of authorized dealers including several leading retailers in the United
 3 States, such as Lowes, Home Depot, Best Buy, APT, Buy.com, PC Richard & Son, and
 4 other large retail chains, as well as through independently owned distributors.

5 9. On or around the beginning of September 2014, Plaintiff purchased an LG
 6 refrigerator, Model No. LFX31945ST,¹ from Lowes located in Irvine, Orange County,
 7 California. Plaintiff paid approximately \$2,500 for the refrigerator. Plaintiff used the
 8 refrigerator in her home for its intended purpose and in a manner consistent with its
 9 intended use.

10 10. The refrigerator has a LG Slim SpacePlus™ Ice System (“Ice System”).
 11 The Ice System is located in the interior portion of the door of the refrigerator, giving the
 12 refrigerator more storage capacity than other refrigerators. The Ice System makes and
 13 stores ice and has an external automatic ice dispenser that allows the consumer to obtain
 14 ice without opening the refrigerator door. Plaintiff saw this feature and liked that it
 15 provided an in-door automatic ice dispenser without losing storage capacity.

16 11. The refrigerator also has an LG Smart Cooling Plus System (“SCP”). The
 17 SCP is “designed to monitor and maintain conditions to help keep food fresh.” On the
 18 date that Plaintiff purchased the refrigerator, the sales person at Lowes pointed out that
 19 one of the features of the refrigerator was that it had different temperature zones in the
 20 refrigerator that could be regulated based on what was being stored in the temperature
 21 zone. Some of the zones identified were a drawer for meat, a drawer for vegetables, and
 22 a drawer for buffet platters. This was one of the features about the refrigerator that
 23 Plaintiff liked because it was supposed to help keep food fresh longer. As stated by
 24 Defendant in its advertising, “[t]he Linear Compressor and Dual Evaporators [that are
 25 part of the SCP] react quickly to humidity and temperature levels and help keep your

26
 27 1 The term “Model” will refer to the LG’s Model No. LFX31945ST and not just the refrigerator the Plaintiff
 28 purchased.

1 food fresher, longer. Meanwhile, strategically-placed vents in every section help to
2 surround your food with cool, fresh air no matter where you put it.”

3 12. Within one year of owning and operating the refrigerator under normal
4 household conditions, and as recommended by Defendant, the refrigerator began to have
5 problems. The Ice System would repeatedly clog and become non-operational. When
6 Plaintiff contacted Defendant about the problem she was told that in order to stop the
7 clogs she would have to empty the ice tray every day. The refrigerator would also get
8 various error messages and sometimes it would simply stop working. When this
9 happened, Plaintiff was instructed by Defendant to unplug the refrigerator for at least 15
10 minutes and then plug it back in. Plaintiff was told by Defendant that this would reboot
11 the refrigerator’s control board. Sometimes Plaintiff would have to perform this
12 unplugging, waiting, and re-plugging ritual multiple times to try to reboot the control
13 board. When the refrigerator was unplugged and when it stopped working, the food in
14 the refrigerator was not being cooled by the SCP. Because the food was not being
15 cooled, it would spoil and ice would melt and leak onto the floor. As a result, the Ice
16 System did not work properly.

17 13. Even when the refrigerator was plugged in, the refrigerator would receive
18 various error messages and the SCP would stop regulating the different temperature
19 zones of the refrigerator. When this happens, the food begins to spoil and ice melts and
20 leaks out of the refrigerator. When this happened, Plaintiff was instructed by Defendant
21 to unplug the refrigerator for at least 15 minutes and then plug it back in. Plaintiff was
22 told by Defendant that this would reboot the refrigerator’s control board. Sometimes
23 Plaintiff would have to perform this unplugging, waiting, and re-plugging ritual multiple
24 times to try to reboot the control board. When the refrigerator was unplugged and when
25 it stopped working, the food in the refrigerator was not being cooled by the SCP.
26 Because the food was not being cooled, it would spoil and ice would melt and leak onto
27 the floor. As a result, the SCP did not work properly.

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1 14. The plug for the refrigerator is located on the back of the refrigerator so it
2 was not an easy task to unplug the refrigerator. The refrigerator was heavy and it had to
3 be moved out from the cupboard space and away from the wall and then moved back
4 when it started up again.

5 15. Defendant provides an express warranty for workmanship and materials.
6 Defendant contracts with third party repair companies to provide repairs to consumers
7 under the express warranty. Defendant pays the third-party repair companies a one-time
8 amount regardless how many times the refrigerators must be repaired. A consumer will
9 contact Defendant who will direct them to the third-party repair company servicing the
10 consumer's location. The third-party repair companies are disincentivized from
11 troubleshooting, visiting, inspecting, or repairing a consumer's refrigerator after its first
12 troubleshoot, visit, inspection, or repair. In fact, it was customary for these third-party
13 repair companies to delay the repair until the warranty period had expired before they
14 repaired a refrigerator. This way, the repair company would receive payment for the
15 repair with the consumer's money where they would otherwise receive no additional
16 payment from Defendant. Defendant's behavior shows a conscious disregard for the
17 rights of Plaintiff and the refrigerator consumers.

18 16. As such, Defendant breached its express warranties, as set forth above, by
19 selling and supplying the products in conditions which did not meet the warranty
20 obligations undertaken by Defendant and by failing to adequately repair the products.

21 17. Defendant also knew of the problems with the Ice System and SCP because
22 it was involved in a prior class action lawsuit first filed on December 10, 2012, case no.
23 13-cv-0485 JM (JMA). Defendant represented that it had the appropriate solutions to
24 address the Ice System and SCP issues. Accordingly, the parties entered into a settlement
25 which was ultimately approved on May 18, 2015 by Honorable Jeffrey Miller.
26 Notwithstanding the consumer complaints Defendant received that resulted in a class
27 action lawsuit and the following settlement agreement, Defendant continues to
28 manufacture refrigerators with a defective Ice System and SCP.



CLASS ALLEGATIONS

18. Plaintiff brings this action on behalf of herself and all others similarly situated as a class action pursuant to Rule 23(a)(1) and (3) and Civil Code §1781.

19. Plaintiff seeks to represent the following classes:

- a. All persons in California who purchased an LG refrigerator for home use with the LG Smart Cooling Plus System within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (California SCP Class).
 - b. All persons in California who purchased an LG refrigerator for home use with the LG Slim SpacePlus™ Ice System within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (California Ice System Class).
 - c. All persons in California who purchased an LG refrigerator Model No. LFX31945ST within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (California Model Class).
 - d. All persons in the United States who purchased an LG refrigerator for home use with the LG Smart Cooling Plus System within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (Nationwide SCP Class).
 - e. All persons in the United States who purchased an LG refrigerator for home use with the LG Slim SpacePlus™ Ice System within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (Nationwide Ice System Class).
 - f. All persons in the United States who purchased an LG refrigerator Model No. LFX31945ST within 4 years from the date this Complaint is filed and continuing to the date this action is resolved (Nationwide Model Class).

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1 20. The California SCP Class, the California Ice System Class, the California
 2 Model Class, the Nationwide SCP Class, the Nationwide Ice System Class, and the
 3 Nationwide Model Class are collectively referred to as the “Classes.”

4 21. The California SCP Class, the California Ice System Class, and the
 5 California Model Class are collectively referred to as the “California Classes.”

6 22. Excluded from the Classes are Defendant, any entity in which Defendant
 7 has a controlling interest, and any of the Defendant’s subsidiaries, affiliates, and officers,
 8 directors or employees and any legal representative, heir, successor, or assigns of
 9 Defendant.

10 23. The members of the Classes are so numerous that joinder of all such
 11 persons is impracticable and the disposition of their claims as a class will benefit the
 12 parties and the court. While the exact number of members of the Classes are unknown to
 13 Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff
 14 is informed and believes, and on that basis alleges, that thousands of persons are
 15 members of the Classes.

16 24. There is a well-defined commonality of interest in questions of fact
 17 involving and affecting Plaintiff and the Classes which includes, without limitation:

- 18 a. Whether Defendant made material omissions regarding extraordinary
 19 measures a consumer would need to take to keep the SCP, Ice System, and
 20 Model operational in order to make them fit for the ordinary purposes for
 21 which they were intended and used;
- 22 b. Whether Defendant knew and/or recklessly disregarded the fact that the
 23 extraordinary measures were required to keep the SCP, Ice System, and
 24 Model operational;
- 25 c. Whether Defendant engaged in unfair competition, unconscionable acts or
 26 practices, and unfair or deceptive acts or practices in connection with the
 27 sale of the SCP, Ice System, and Model;
- 28 d. Whether Defendant violated the consumer protection statutes in California;

- 1 e. Whether Defendant breached its implied warranties;
- 2 f. Whether Defendant breached express written and/or representative
- 3 warranties;
- 4 g. Whether Defendant has been unjustly enriched;
- 5 h. Whether Plaintiff and the Classes have suffered damages as a result of
- 6 Defendant's conduct, and, if so, the appropriate amount thereof; and
- 7 i. Whether as a result of Defendant's conduct, Plaintiff and the Classes are
- 8 entitled to equitable relief or other relief, and, if so, the nature of such
- 9 relief.

10 25. The claims of Plaintiff alleged herein are typical of those claims by
11 members of the Classes and the relief sought is typical of the relief which would be
12 sought by members of the Classes.

13 26. Plaintiff and her counsel will fairly and adequately represent and protect the
14 interests of all members of the Classes.

15 27. The prosecution of separate actions by individual members of the Classes
16 would create a risk of inconsistent and/or varying adjudications with respect to the
17 individual members of the class, establishing incompatible standards of conduct for
18 Defendant and resulting in the impairment of rights of members of the Classes and the
19 disposition of their interest through actions to which they were not parties.

20 28. A single class action is superior to numerous individual actions as a means
21 of adjudicating those claims.

FIRST CAUSE OF ACTION

23 (By Plaintiff, individually and on behalf of the California Classes against Defendant)

Violations of the California Consumer Legal Remedies Act

25 29. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the
26 paragraphs stated above in this Complaint as though fully set forth herein.

1 30. Plaintiff, individually and on behalf of all similarly situated California
 2 Class members, and the general public seek injunctive relief for Defendant's violation of
 3 the California Consumer Legal Remedies Act, California Civil Code §§1750, *et seq.*

4 31. The CLRA applies to Defendant's actions and conduct described herein
 5 because it extends to transactions that are intended to result, or which have resulted, in
 6 the sale of goods to consumers for personal, family or household use.

7 32. Refrigerators constitute "goods" within the meaning of Civil Code
 8 §1761(a).

9 33. Defendant constitutes a "person" within the meaning of Civil Code
 10 §1761(c).

11 34. Plaintiff and the California Class are "consumers" within the meaning of
 12 the Civil Code §1761(d).

13 35. Defendant's conduct as alleged herein constitutes a "transaction" within the
 14 meaning of Civil Code §1761(e).

15 36. The CLRA provides in relevant part that "[t]he following unfair methods of
 16 competition and unfair or deceptive acts or practices undertaken by any person in a
 17 transaction and intended to result or which results in the sale or lease of goods...to any
 18 consumer are unlawful: (5) Representing that goods... have...
 19 characteristics, uses, benefits...which they do not have; (7) Representing that
 20 goods...are of a particular standard, quality or grade...if they are of another;... and (9)
 21 Advertising goods... with intent not to sell them as advertised." Civil Code
 22 §§1770(a)(5), (7), and (9).

23 37. Civil Code §1780(a)(2) permits any court of competent jurisdiction to
 24 enjoin practices that violate Civil Code §1770.

25 38. Under Civil Code §1780(e), Plaintiff may also recover attorneys' fees and
 26 costs according to proof at time of trial.

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Allegations for the California SCP Class

39. The SCP stops regulating the temperature in the different temperature zones of the refrigerator. When this happens, the food begins to spoil and ice melts and leaks out of the refrigerator. In order to restart the SCP, Plaintiff was regularly required to unplug the refrigerator, wait for at least 15 minutes, and then re-plug in the refrigerator.

40. At no time prior to the purchase of the refrigerator was Plaintiff told that in order to keep the SCP operational, she would need to repeatedly unplug the refrigerator for at least 15 minutes. Omission of this critical information was misleading and was done for the purpose of inducing Plaintiff and the California SCP Class into purchasing Defendant's refrigerators.

41. Unplugging the refrigerator and re-plugging it in would only provide a temporary fix. This exercise would need to be performed on a regular basis.

42. Had Plaintiff known she would have to continually keep unplugging and re-plugging in the refrigerator to keep the SCP system operational, she would not have purchased the refrigerator.

43. A reasonable consumer would want to know that this action was necessary in order to keep the SCP operational. This is especially true because the refrigerator fell at the upper end of the price spectrum.

44. Defendant had multiple opportunities to disclose the extraordinary measures necessary to keep the SCP operational. This includes, but is not limited to, disclosure at the retail display of refrigerators with the SCP, on its websites, and at the point of purchase.

45. Plaintiff and the California SCP Class reasonably relied on the representation that the refrigerator had the capability to regulate the temperature in various zones of the refrigerator and that this function would help keep food fresh longer than other refrigerators without the SCP technology. In actuality, the SCP stops working completely or fails to regulate the temperature in the refrigerator because it causes food to defrost, ice to melt, and the refrigerator to become warm.

1 46. Defendant knew that the SCP did not work as represented and did not have
2 the qualities that were represented when it sold the product to Plaintiff and the California
3 SCP Class. Defendant has a phone number for customers to call to report problems.
4 Customers had previously contacted Defendant to report problems with the cooling of the
5 refrigerator because when Plaintiff called to report the problem she was told the fix was
6 to unplug the refrigerator in order to reboot it. This indicates Defendant was aware of the
7 problem prior to Plaintiff's call and had developed a "fix." Defendant's knowledge was
8 further confirmed when Defendant sent out a service technician to perform warranty
9 repairs to the refrigerator. The service technician, who was hired by Defendant to
10 perform warranty repairs and indicated to Plaintiff that he had performed many other
11 repairs on Defendant's products, explained that the types of problems Plaintiff was
12 experiencing were common to Defendant's refrigerators.

13 47. Defendant also knew of the problem with the SCP because it tracks
14 problems with its products. When a customer calls Defendant to report a problem, a
15 claim number is generated. If a service technician is sent to perform repairs, the service
16 technician must track by claim number the part and repairs performed. Defendant must
17 keep track of these claim numbers and the repairs performed as part of its ability to
18 comply with its No Lemon Guarantee provided to members of the California Classes.
19 Defendant referred to prior claims Plaintiff had made during their conversations so it was
20 clear that Defendant kept track of calls it received.

21 48. Plaintiff is also informed and believes that Defendant knew of the problem
22 with the SCP because its warranty service providers must report to Defendant the types of
23 problems encountered and obtain necessary equipment, instruction, and training to repair
24 Defendant's products.

25 49. Plaintiff is also informed and believes that Defendant knew of the problem
26 with the SCP System because LG customers called its customer service line to complain.
27 This is evidenced by numerous complaints lodged on various websites which document
28 LG customers repeated calls to LG to complain about the SCP. For example, on the

1 website consumeraffairs.com, 1,795 LG customers have posted reviews about their LG
 2 refrigerators, with 88% giving a one-star (out of five) rating; 4% giving it a two-star
 3 rating – and only 8% providing either a 3, 4 or 5-star rating. Multiple posts by LG
 4 customers evidence their repeated calls to LG and LG's refusal or inability to repair the
 5 problems. For example:

<p>6 https://www.amazon.com/LG-LFX31945ST-Super-Capacity-French-Refrigerator/product-reviews/B008I6TZRM/ref=cm_cr_getr_d_paging_btm_3?ie=UTF8&reviewerType=all_reviews&pageNumber=3&filterByStar=one_star&sortBy=recent</p> <p>7 On August 24, 2014, Big Rich Rules</p> <p>8 wrote:</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>“At first I liked it because it was very quiet & could barely hear it at all! But, I had to Return it after multiple service calls to get the temperature to stay constant and at the set temperature. The service man advised me it was working perfect on each visit so I purchased three thermometers to put inside and one for the freezer. This proved I was correct and unit was not working properly. The mother boards were replaced and so was the ice maker but problems continued. On the last service call the service man decided to replace parts in the bottom freezer. He could not get the draws inside the bottom freezer to pull out and advised me I had dropped a frozen package in the back of the freezer and this was stopping the draw from opening? I did not believe that. On the last service call the draw was stuck again and the service man had to really</p>
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1 work to get it to pull out. The end result
2 was that upon removing the back wall
3 of the freezer, the whole inside frame
4 was iced up with old brown colored 10-
5 month-old ice which was so severe it
6 had been blocking the draws from
7 pulling out! Right away I pulled out my
8 iPhone and recorded pictures/video with
9 sound which at times drowned out the TV
10 in the back ground! (noise started months
11 earlier) the ice got so bad it was now also
12 hitting a cooling fan, according to the
13 serviceman. None of this was visible
14 unless the inside walls were removed and
15 most of the bottom freezer disassembled!
16 Good Luck when your warranty &
17 extended warranty is over! I found the
18 third door in the front was not useful. My
19 replacement (different brand) enables me
20 to put a gallon size container (milk etc.)
21 on the inside door and I went with the
22 two-draw freezer style, with a better
23 organized bottom freezer. I think the days
24 of having a refrigerator last for 10 years is
25 over. Too many computerized parts now
26 which all last about the same time
27 regardless of how much you spend on
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1		your unit."
2	https://www.consumeraffairs.com/ homeowners/lg_refrigerator.html? page=25 Nelson of Lockport, NY, posted on May 19, 2014	"I am on my second LG 30.5 Cu Ft Door in Door French Door Refrigerator with Ice and water dispenser LFX31945ST. Price over 2.5k. Thank god for Best buy return and exchange policy or I would be screwed. After reviewing website's recommendations claiming this LG was the #1 rated product, I soon came to realize those rating are mostly on features and design. The reviewers do not actually keep that refrigerator in house and truly test the quality and durability of the product. So I purchased my brand-new fridge - super excited. As a family of 5, I need something big and nice.
17		During the next two weeks, my wife kept noticing the freezer was not maintain the temperature. Give you an example: anytime you take out, ice cream, I normally had to let it sit on the counter for a minute before I was able to scope it out. With my top of the line LG Fridge I can take the container and squeeze with my bare hands. Call the LG tech, replace the motherboard. 24 hours later the whole fridge failed, all food lost. Call Best

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**buy, I believed in the product and the
review. This must of been a unique
experience. Today is day 14 and the
freezer still does not freeze properly,
sending it back. Never ever will look at
LG for anything again.”**

8 50. Defendant also knew of the problems with the SCP because it was involved
9 in a prior class action lawsuit first filed on December 10, 2012, case no. 13-cv-0485 JM
10 (JMA). Defendant represented that it had the appropriate solutions to address the SCP
11 issues. Accordingly, the parties entered into a settlement which was ultimately approved
12 on May 18, 2015 by Honorable Jeffrey Miller. Notwithstanding the consumer complaints
13 Defendant received that resulted in a class action lawsuit and the following settlement
14 agreement, Defendant continues to manufacture refrigerators with a defective SCP.

15 51. Defendant intended Plaintiff and the California SCP Class to rely on its
16 representations that the SCP would regulate the temperature in the various zones of its
17 refrigerators and keep the refrigerator cool without having to take extraordinary
18 measures. One of the reasons Plaintiff purchased the refrigerator with the SCP
19 technology was because the temperature variations it offered were supposed to keep food
20 fresh longer than other refrigerators without the SCP technology. Defendant’s own
21 advertising claims the SCP keeps food fresh longer and that it is “cutting edge
22 technology.” Defendant’s advertising indicates that it is attempting to distinguish itself
23 from other refrigerators and induce consumers to purchase its product by offering a new
24 technology that other refrigerators do not have.

25 52. Plaintiff and the California SCP Class have suffered and continue to suffer
26 injury in fact and have lost money as a result of Defendant’s omission in that they have
27 overpaid for the refrigerators with the SCP, incurred additional operating expenses and/or
28 would not have bought the refrigerators with the SCP had the Defendant disclosed that

1 the SCP was unable to perform its essential function of regulating the temperature in the
2 refrigerator. Further, when the SCP would stop functioning, frozen items and ice would
3 melt. The water would leak out of the refrigerator onto the floor. This created a safety
4 hazard and damage to the floor. Food would also begin to spoil and would spoil.
5 Plaintiff was required to throw out a significant amount of food, which caused monetary
6 loss. Plaintiff was also not able to use a refrigerator that she bought for approximately
7 \$2,500 for extended periods of time. Plaintiff is informed and believes that other
8 members of the California SCP Class suffered similar injuries.

9 53. Defendant's actions were intended to harm Plaintiff and the California SCP
10 Class and were done with malice and conscious disregarding of Plaintiff and the
11 California SCP Class's rights as stated herein.

12 54. On behalf of herself and the California SCP Class, Plaintiff requests an
13 order enjoining the methods, acts, or practices; attorney's fees and costs; and any other
14 relief that the Court deems proper.

Allegations for the Ice System Class

16 55. Ice gets clogged in the ice chute of the refrigerators and the Ice System
17 stops working. Plaintiff was told by Defendant that to prevent this she would have to
18 regularly empty the ice tray.

19 56. At no time prior to the purchase of the refrigerator was Plaintiff told that in
20 order to keep the Ice System operational she would need to regularly empty the ice tray.
21 Plaintiff had never before been required to empty the ice tray in her previous refrigerators
22 in order to keep the icemaker operational. Had Plaintiff known this action was required to
23 keep the Ice System operational she would not have purchased the refrigerator.

57. A reasonable consumer would also want to know that they would need to regularly empty the ice tray, in what was supposed to be an automated icemaker, in order to keep the Ice System operational. This is especially true because the refrigerator fell at the upper end of the price spectrum and people who buy a refrigerator with an ice maker

1 reasonably want it to make ice and have ice available for use without having to regularly
 2 empty the icemaker or risk it clogging.

3 58. Defendant had multiple opportunities to disclose the extraordinary
 4 measures necessary to keep the Ice System operational. This includes, but is not limited
 5 to, disclosure at the retail display of refrigerators with the Ice System, on its websites, and
 6 at the point of purchase.

7 59. Plaintiff and the California Ice System Class reasonably relied on the
 8 representation that the Ice System would function as an ice maker that would make and
 9 dispense ice. In actuality, however, the Ice System would clog and the consumer would
 10 need to regularly dump the ice that it made in order to keep it operational.

11 60. Defendant was aware of the extraordinary efforts that were required to keep
 12 the Ice System operational but failed to disclose these facts to Plaintiff and the California
 13 Ice System Class. Defendant's knowledge is based on the following complaints on
 14 Defendant's own website:

<p>16 http://www.lg.com/us/refrigerators/lg-LFX31925ST-french- 17 3-door-refrigerator 18 In 2012, Sheila 99 wrote:</p>	<p>19 "The refrigerator was purchased in Sept. 2011 and have 20 been nothing but a headache. We have called repair due 21 to loud motor noise, so fan was replaced. Then, the 22 icemaker started jamming and the ice was melting 23 in the icemaker. Called repair for that issue. We are 24 continuously getting a message "ER, 1F", so customer 25 service said unplug refrig for 4 hours. Tried solution 26 still having same issue. I am gonna demand this 27 product to be replaced b/c we have had 7-8 service 28 calls since purchase. I feel that we have invested too much money for these problems. "LG PLEASE REPLACE THIS PRODUCT." I have read the</p>
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	<p>reviews and some of us are continuously having the same problems, so this should signal a red flag that your product is inferior. This is just bad business not to satisfy your customers.”</p>
5 6 7 8 9 10 11 12 13 14 15 16 17	<p>http://www.lg.com/us/refrigerators/lg-LFX31925ST-french-3-door-refrigerator</p> <p>In July 2016, Kspeaker wrote:</p> <p>“We've only owned this refrigerator for less than 3 years and it's really been nothing but trouble. Ice maker gets jammed often but the bigger problem is the compressor. I just payed to have ice buildup removed (third time) so that the fan doesn't make a horrific, long lasting drill-like sound. There is also a pretty significant hum that often causes our glasses in the nearby cabinet to rattle. According to our serviceman today, this means the compressor is failing. All servicemen we've had come have basically said the same thing about this fridge and others similar...lots of trouble!”</p>
18 19 20 21 22 23	<p>http://www.lg.com/us/refrigerators/lg-LFX31925ST-french-3-door-refrigerator</p> <p>In January 2017, Ronald Rat wrote:</p> <p>“LG has attempted to fix going on 5 months NO ICE”</p>

24 61. It was further confirmed that Defendant knew of the problem with the Ice System when the service technician that Defendant sent to perform warranty repairs to the refrigerator said that Plaintiff’s problems with her refrigerator are common.

25 62. Defendant also knew of the problem with the Ice System because it hired warranty service providers to repair its products. When a customer calls Defendant to

1 report a problem, a claim number is generated. If a service technician is sent to perform
 2 repairs, the service technician must track by claim number the part and repairs performed.
 3 Defendant must keep track of these claim numbers and the repairs performed as part of
 4 its ability to comply with its No Lemon Guarantee provided to members of the California
 5 Classes. Defendant referred to prior claims Plaintiff had made during their conversations
 6 so it was clear that Defendant kept track of calls it received.

7 63. Plaintiff is also informed and believes that Defendant knew of the problem
 8 with the Ice System because its warranty service providers must report to Defendant the
 9 types of problems encountered and obtain necessary equipment, instruction, and training
 10 to repair Defendant's products.

11 64. Plaintiff is also informed and believes that Defendant knew of the problem
 12 with the Ice System because LG customers called its customer service line to complain.
 13 This is evidenced by numerous complaints lodged on various websites which document
 14 LG customers repeated calls to LG to complain about the Ice System. For example, on
 15 the website consumeraffairs.com, 1,795 LG customers have posted reviews about their
 16 LG refrigerators, with 88% giving a one-star (out of five) rating; 4% giving it a two-star
 17 rating – and only 8% providing either a 3, 4 or 5-star rating. Multiple posts by LG
 18 customers evidence their repeated calls to LG and LG's refusal or inability to repair the
 19 problems. Below are some examples of customer complaints:

20 https://www.consumeraffairs.com/ 21 homeowners/lg_refrigerator.html? 22 page=23 23 David of Sherwood, AR, posted 24 on Aug. 22, 2014	“We own a French door LG with Ice in the door. The box worked flawlessly for the first two years. Since then it has been nothing but a long effort to get the ice maker to work. There have been no less than 10 service calls trying to fix the ice maker. They replaced PC boards, ice makers, ice dispensers etc. etc. The final fix was a motherboard, ice controller board and a new
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	<p>door. This repair lasted about 3 weeks and then the box quit making cold and we lost all the food. The service company that provided the repairs was competent enough, but the box is just a piece of junk. We had a terrible time just getting repair service for the last failure.</p> <p>According to our service contract we should have been given a new box after the third repair. I have called them time and again and cannot get them to move on replacing the box. I cannot tell you how utterly frustrating it has been to get this box repaired. We were given a loaner box from Home depot after the LG quit entirely. The box is not working and we still have the loaner from Home Depot. Hurrah, for Home Depot. My only words for anyone who buys an LG is you better have another fridge and you better buy a good service contract. Forget about an ice maker, they just don't work."</p>
<p>http://www.consumeraffairs.com /homeowners/lg_refrigerator.html ?page=23</p> <p>Karen of Olathe, KS posted on July 23, 2014</p>	<p>"Bought LG's top end fridge in 2011. Had multiple issues with ice maker working, compressor within the first year. The LG technician ruined our wood floor and left dents all over it, which LG has paid for refinishing. We've put up with not having enough ice from the beginning. BUT, this past weekend the ice</p>

maker quit, then the rest of the fridge stopped working. Had to throw out tons of food. This was on a Saturday night, 7/20. We bought an extended warranty. **We've gone through the proper channels and the contracted repair company cannot come to look at the fridge until 7/30. I have to wait 10 days for service and be without a refrigerator.** That is unacceptable!

Shame on LG for charging huge fees for crappy products. Shame on Nebraska Furniture Mart for selling extended contracts to sub-par repair companies that treat a warranty like a welfare recipient. Shame on Mega Performance, the extended warranty provider and shame on Mr. Appliance in Overland Park, KS. Today is 7/22 and we are trying to figure out a plan and get this resolved, quickly. Customer service is lacking horribly in this country. People need to step up and be accountable and do the right thing.”

65. Defendant also knew of the problems with the Ice System because it was involved in a prior class action lawsuit first filed on December 10, 2012, case no. 13-cv-0485 JM (JMA). Defendant represented that it had the appropriate solutions to address the Ice System issues. Accordingly, the parties entered into a settlement which was ultimately approved on May 18, 2015 by Honorable Jeffrey Miller. Notwithstanding the consumer complaints Defendant received that resulted in a class action lawsuit and the

1 following settlement agreement, Defendant continues to manufacture refrigerators with a
2 defective Ice System.

3 66. Defendant intended Plaintiff and the California Ice System Class to rely on
4 its representations that the Ice System would act like an ice maker and make and dispense
5 ice without having to take extraordinary measures. One of the reasons Plaintiff and the
6 California Ice System Class purchased refrigerators with the Ice System technology was
7 because they could have an ice maker that dispenses ice without the ice maker taking up
8 valuable storage space.

9 67. Plaintiff and the California Ice System Class have suffered and continue to
10 suffer injury in fact and have lost money as a result of Defendant's omission in that they
11 have overpaid for the refrigerators with the Ice System, incurred additional operating
12 expenses, and/or would not have bought the refrigerators with the Ice System had the
13 Defendant disclosed the Ice System was unable to perform its essential function making
14 and dispensing ice. Further, when the Ice System would clog it would sometimes cause
15 the motor to burn out and the refrigerator to become non-operational. This would cause
16 food to defrost and ice to melt. Water would leak out of the refrigerator onto the floor.
17 This created a safety hazard and damage to the floor. Food would also begin to spoil.
18 Plaintiff was required to throw out a significant amount of food, which caused monetary
19 loss. Plaintiff was also not able to use a refrigerator that she bought for approximately
20 \$2,500. Plaintiff is informed and believes that other members of the California Ice
21 System Class suffered similar injuries.

22 68. Defendant's actions were intended to harm Plaintiff and the California Ice
23 System Class and were done with malice and conscious disregard of Plaintiff and the
24 California Ice System Class's rights as alleged herein.

25 69. On behalf of herself and the California Ice System Class, Plaintiff requests
26 an order enjoining the methods, acts, or practices; attorney's fees and costs; and any other
27 relief that the Court deems proper.

1 70. The refrigerator Model No. LFX31945ST (“Model”) does not operate as
2 intended or advertised. The Model does not continuously refrigerate products nor does it
3 make or dispense ice properly without Plaintiff taking extraordinary steps to keep it
4 operational. Plaintiff was told by Defendant to unplug the refrigerator for at least 15
5 minutes and empty the ice tray. Defendant also sent a service technician out to repair the
6 problems with the refrigerator on numerous occasions.

7 71. At no time prior to the purchase of Model was Plaintiff told of the
8 extraordinary measures necessary to keep the refrigerator operating properly. Omission
9 of this critical information was misleading and was done for the purpose of inducing
10 Plaintiff and the California Model Class into purchasing the Model.

11 72. Had Plaintiff and the California Model Class known they would have to
12 continually keep unplugging and re-plugging in the Model, dumping the ice tray, and
13 having multiple service calls to keep Model operating they would not have purchased the
14 refrigerator.

15 73. A reasonable consumer would want to know that these actions were
16 necessary in order to keep the Model operational. This is especially true because the
17 refrigerator fell at the upper end of the price spectrum.

18 74. Defendant had multiple opportunities to disclose the extraordinary
19 measures necessary to keep the Model operational. This includes, but is not limited to,
20 disclosure at the retail display of the Model, on its websites, and at the point of purchase.

21 75. Plaintiff and the California Model Class reasonably relied on the
22 representation that the Model would act as a refrigerator and would make and dispense
23 ice. In actuality, however, the Model does not continuously refrigerate products nor does
24 it make and dispense ice properly.

25 76. Defendant knew that the Model did not work properly when it sold the
26 Model to Plaintiff. Defendant was aware of customer complaints about the refrigerator
27 from its own website. It keeps track of these complaints by assigning claim numbers.
28 Defendant knew of the “fix” to the Model prior to Plaintiff’s first complaint. The service

1 technician authorized by Defendant to perform warranty repairs also said that the
 2 problems Plaintiff was having were common.

3 77. Defendant also knew of the problem with the Model because it hired
 4 warranty service providers to repair its products. When a customer calls Defendant to
 5 report a problem, a claim number is generated. If a service technician is sent to perform
 6 repairs, the service technician must track by claim number the part and repairs performed.
 7 Defendant must keep track of these claim numbers and the repairs performed as part of
 8 its ability to comply with its No Lemon Guarantee provided to members of the California
 9 Classes. Defendant referred to prior claims Plaintiff had made during their conversations
 10 so it was clear that Defendant kept track of calls it received.

11 78. Plaintiff is also informed and believes that Defendant knew of the problem
 12 with the Model because its warranty service providers must report to Defendant the types
 13 of problems encountered and obtain necessary equipment, instruction, and training to
 14 repair Defendant's products.

15 79. Plaintiff is also informed and believes that Defendant knew of the problem
 16 with the Model because LG customers called its customer service line to complain. This
 17 is evidenced by numerous complaints lodged on various websites which document LG
 18 customers' repeated calls to LG to complain about the LFX31945ST Model. For
 19 example, on the website amazon.com, LG customers have posted reviews about their
 20 ongoing problems with the Model and LG's refusal or inability to repair the problems.
 21 Below are some examples of customer complaints:

22 https://www.amazon.com/ 23 LG-LFX31945ST-Super-Capacity- 24 French-Refrigerator/product-reviews/ 25 B008I6TZRM/ref=cm_cr_arp_d_ 26 viewopt_srt?ie=UTF8&reviewerType= 27 all_reviews&pageNumber=	“ I loved this refrigerator for the first year, but exactly 3 months later (and 3 months out of warranty) it started making a noise. Everything I read about it said that it was ice buildup that the fan was hitting and to take the back panel out of the back of the freezer
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1 1&filterByStar=one_star&sortBy=recent
 2 On November 17, 2016, Amazon
 3 Customer wrote:

4
 5 and melt the ice. I didn't want to mess with it
 6 myself, so I called LG for a repair guy. **The**
 7 **first one who came said he needed to order**
a sensor and evaporator and it would cost
me about \$500. One week went buy and I
followed up and the company said that the
parts were not available. So LG got
another guy to come out. He said I needed
the same parts and had to order them.
 8 **One week went by and I followed up and**
 9 **they also said that the parts were**
 10 **indefinitely on back order.**

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 12
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 14 **So after a NUMBER of calls being**
 15 **bounced around through customer**
 16 **service, an executive service rep finally**
 17 **helped me and got an LG employee repair**
 18 **guy (vs contractor) to come out. He did**
 19 **find ice and melted it. Three weeks later,**
 20 **it stopped working completely again. He**
 21 **was just here again yesterday and put in a**
 22 **new compressor. This morning the**
 23 **refrigerator is still not cooling and at this**
 24 **point, after dealing with this for 3 months**
 25 **and no repair guys know what the**
 26 **problem is or how to fix it, I finally am**
 27 **asking them to declare it a lemon and to**

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1		refund my \$3k. To be continued, but I will 2 never buy another LG appliance again.”
3	https://www.amazon.com/ 4 LG-LFX31945ST-Super-Capacity- 5 French-Refrigerator/product-reviews/ 6 B008I6TZRM/ref=cm_cr_arp_d_ 7 viewopt_srt?ie=UTF8&reviewerType= 8 all_reviews&pageNumber= 9 1&filterByStar=one_star&sortBy=recent 10 On November 17, 2016, H. K. Yildiz 11 wrote: 12 13	“Do not buy this refrigerator! I love the 14 design. Very spacious. Looks chic and 15 everything ... BUT It started to make a very 16 loud noise after 6 months. I called the 17 customer service, they didn't even ask me 18 any questions. They knew what part 19 needed to be changed. Next day the 20 repairman arrived with a replacement 21 part. Apparently, this model has this 22 problem and they know it. It worked fine 23 for a couple of months and later the 24 problem repeated many times in 3 years. 25 Today I am having same issue. Very 26 disappointing.”
27	https://www.amazon.com/ LG-LFX31945ST-Super-Capacity- French-Refrigerator/product-reviews/ B008I6TZRM/ref=cm_cr_arp_d_ viewopt_srt?ie=UTF8&reviewerType= all_reviews&pageNumber= 3&filterByStar=one_star&sortBy=recent On November 17, 2016, Nelson Garro wrote: 28	“I have a family of 5 and needed a large capacity refrigerator and based on websites and product reviews. This LG fridge was rated #1. I soon realized when products are reviewed they do not keep them for an extended period of time to truly see how it performs after a week/month/year etc. After receiving my fridge my wife started noticing the freezer was not freezing or holding the temp. Even after adjusting the

	<p>1 setting to (-6) and waiting over 48 hours 2 for the temp to adjust I could still take out 3 my ice cream and drinking thru a straw as 4 it was a shake. Called LG they dispatch 5 someone to my house right away the tech 6 believed it was a mother board issue the 7 compressor may not be getting the correct 8 signal from the control panel. Swap it out 9 it seem to be working for the next few 10 hours - then a complete total failure both 11 the Fridge and Freezer was not cooling at 12 all. Complete shutdown.</p> <p>13</p> <p>14 Fridge was still within the exchange period 15 with Best Buy and had it swap out for the 16 same unit. How can two fridges fail on 17 you. Nope within 14 days the second fridge 18 died as well. Thank goodness for Best Buy 19 who came back and picked up this junk.</p> <p>20</p> <p>21 Oh I tried to post my review on LG and they 22 rejected it without cause, no wonder on its 23 site the fridge has 5 stars”</p>
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25 80. Defendant also knew of the problems with the Ice System and SCP because
26 it was involved in a prior class action lawsuit first filed on December 10, 2012, case no.
27 13-cv-0485 JM (JMA). Defendant represented that it had the appropriate solutions to
28 address this specific Model’s issues. Accordingly, the parties entered into a settlement

1 which was ultimately approved on May 18, 2015 by Honorable Jeffrey Miller.
2 Notwithstanding the consumer complaints Defendant received that resulted in a class
3 action lawsuit and the following settlement agreement, Defendant continues to
4 manufacture this defective Model.

5 81. Defendant intended Plaintiff and the California Model Class to rely on its
6 representations that the Model would actually function like a refrigerator without having
7 to take extraordinary measures. Defendant calls the Model a refrigerator, the refrigerator
8 is displayed with other refrigerators, Plaintiff was told at the time of purchase that the
9 refrigerator had a special feature for regulating temperature, and that it has an ice maker
10 that makes, stores, and dispenses ice. The Model itself looks like it has an ice maker that
11 makes, stores, and dispenses ice.

12 82. Plaintiff and the California Model Class have suffered and continue to
13 suffer injury in fact and have lost money as a result of Defendant's omission in that they
14 have overpaid for the Model, incurred additional operating expenses and/or would not
15 have bought the Model had the Defendant disclosed the Model was unable to perform its
16 essential function of refrigeration and making, storing, and dispensing ice. When the
17 Model stopped functioning, frozen items and ice would melt. The water would leak out
18 of the refrigerator onto the floor. This created a safety hazard and damage to the floor.
19 Food would also begin to spoil. Plaintiff was required to throw out a significant amount
20 of food, which caused monetary loss. Plaintiff was also not able to use a refrigerator that
21 she bought for approximately \$2,500. Plaintiff is informed and believes that other
22 members of the California Model Class suffered similar injuries.

23 83. Defendant's actions were intended to harm Plaintiff and the California
24 Model Class and were done with malice and conscious disregarding of Plaintiff and the
25 California Model Class's rights as stated herein.

26 84. On behalf of herself and the California Model Class, Plaintiff requests an
27 order enjoining the methods, acts, or practices; attorney's fees and costs; and any other
28 relief that the Court deems proper.

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SECOND CAUSE OF ACTION

(By Plaintiff, individually and on behalf of the California Classes)

Violations of Cal. Bus. & Prof. Code §17200, *et seq.*

85. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the paragraphs stated above in this Complaint as though fully set forth herein.

86. Plaintiff, individually and on behalf of all similarly situated California Class members, and the general public, brings this cause of action pursuant to California Business and Professions Code §17200, *et seq.*

87. The Unfair Business Practices Act defines unfair business competition to include any “unfair,” “unlawful,” or “fraudulent” business act or practice. California Bus. & Prof. Code §§17200 and 17500, *et seq.* The Act also provides for injunctive relief and restitution for violations.

88. Defendant has engaged in unlawful, unfair and/or fraudulent business acts and practices as set forth above.

89. Defendant's conduct constitutes unfair business acts and practices because Defendant's practices as described herein have deceived and/or were likely to deceive Plaintiff and the California Class, and other members of the consuming public. At no time prior to the purchase of SCP, Ice System, or Model was Plaintiff or the California Classes told that extraordinary measures were required to keep the products operational. Failure to disclose this information constitutes material omissions of facts that a reasonable consumer would to know prior to the purchase of the products.

90. Further, Defendant's acts and practices are unlawful because they violate or violated one or more of the following: California Civil Code §§1790, *et seq.*; Civil Code §1750, *et seq.*; California Uniform Commercial Code §2313; and California Bus. & Prof. Code §§17200 and 17500, *et seq.*

1 91. Defendant's acts and practices are fraudulent in that it knowingly failed to
 2 disclose material facts that a reasonable consumer would want to know prior to the
 3 purchase of the products.

4 92. The injury to Plaintiff and the California Classes greatly outweigh any
 5 alleged countervailing benefit to consumers or competition under all of the
 6 circumstances. The injury clearly constitutes substantial injury as the products develop
 7 serious problems which require costly repairs and losses to the California Classes and
 8 extraordinary measures to keep operational. There is no benefit to the consumers by
 9 allowing Defendant to knowingly market and sell products without disclosing material
 10 facts that a reasonable consumer would want to know.

11 93. Plaintiff and the California Classes seek an order of this Court awarding
 12 restitution, injunctive relief and all other relief allowed under Section 17200, *et seq.*, plus
 13 interest, attorneys' fees and costs under California Code of Civil Procedure section
 14 1021.5.

THIRD CAUSE OF ACTION

16 (By Plaintiff, individually and on behalf of the California Classes)

Violations of Cal. Bus. & Prof. Code §17500, *et seq.*

18 94. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the
 19 paragraphs stated above in this Complaint as though fully set forth herein.

20 95. Plaintiff, individually and on behalf of all similarly situated members of the
 21 California Classes, and the general public, brings this cause of action pursuant to the
 22 California Business and Professions Code §17500 *et seq.*

23 96. The misrepresentations by omission by Defendant of the material facts
 24 detailed above constitute false and misleading advertising by omission and therefore
 25 constitute a violation of California Bus. & Prof. Code §17500, *et seq.*

26 97. At all times relevant, Defendant's material omissions were likely to deceive
 27 consumers into purchasing refrigerators with the SCP and Ice System and purchasing the
 28 Model.

98. Plaintiff and the California Classes have suffered injury in fact and have lost money or property as a result of Defendant's unfair advertising of the Refrigerators, as more fully set forth herein. These injuries are ongoing in that Plaintiff and the California Classes continue to have problems with the SCP, Ice System, and Model and Defendant continues to fail to disclose the extraordinary measures that must take place to keep the Refrigerator operational.

99. Unless Defendant is enjoined from continuing to engage in such wrongful actions and conduct, members of the California Classes will continue to be damaged by Defendant's false and /or misleading advertising by omission.

100. Plaintiff and the California Classes seeks an order requiring Defendant to make full restitution of all monies wrongfully obtained and disgorge all ill-gotten revenues and/or profits, together with interest thereon and costs under California Code of Civil Procedure section 1021.5.

FOURTH CAUSE OF ACTION

(By Plaintiff, individually and on behalf of the California Classes)

Breach of Express Warranty under the Song Beverly Act, Cal. Civ. Code §1790, et seq., Cal. Comm. Code §2313, and California Common Law

101. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the paragraphs stated above in this Complaint as though fully set forth herein.

102. Plaintiff, individually and on behalf of all similarly situated California Class members, and the general public seeks recovery for Defendant's breach of express warranty under the laws of the State of California.

103. Defendant's express written warranty states: "[s]hould your LG Refrigerator ("Product") fail due to a defect in materials or workmanship under normal home use, during the warranty period set forth below, LG will at its option repair or replace the product."

104. Plaintiff provided Defendant repeated opportunities to repair the SCP, Ice System, and Model within the warranty period. Her first phone call to Defendant

1 concerning problems with the refrigerator was during the first year of ownership. She
2 made multiple calls thereafter. On multiple occasions when Plaintiff would call to report
3 problems with the refrigerator, Defendant told Plaintiff to unplug the refrigerator, wait,
4 and then plug it back in. This “fix” would be for various problems with the refrigerator,
5 including when the refrigerator would make a loud noise like it was a plane taking off,
6 when it would start to vibrate, when the control panel would start to flash, or when
7 various error codes (such as “ER” or “Error Code FF”) would appear. When the ice
8 maker would clog, Defendant would tell Plaintiff she needed to dump the ice in the ice
9 maker every day so it would not get too full.

105. In January 2016 Defendant finally decided to send a service technician to
11 look at the refrigerator. The service technician determined at that time the Refrigerator’s
12 issues stemmed from the ice fan’s motor. These repairs were made to the refrigerator.
13 Plaintiff was required to pay out-of-pocket expenses for the repairs.

106. Plaintiff continued to have problems with the refrigerator even after the
11 repairs so she continued to contact Defendant. In early March 2017, Plaintiff’s
12 Refrigerator began exhibiting problems again.

107. After Defendant’s repeated failure to correct the problems, Plaintiff
11 requested Defendant provide her with a new refrigerator. Defendant refused claiming
12 that *Plaintiff* was required to report the *exact* same problem at least three times before
13 Defendant would even consider replacing the refrigerator.

108. Defendant failed to honor its express warranty to repair or replace the
11 product. Any purported repair that Defendant made was itself defective because the
12 repair failed and problems persisted. When Plaintiff sought replacement of the
13 refrigerator, Defendant refused. Defendant has failed to comply with Song-Beverly Act,
14 Civil Code §1793.2(b) and (d), Cal. Uniform Commercial Code § 2313, and California
15 Common Law.

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1 109. Plaintiff and the California Classes relied on the express written warranties
2 and Defendant has failed to satisfy its obligations under the express written warranties by
3 not adequately repairing and/or replacing the products.

4 110. Defendant had no motivation to fix the products because it entered into
5 contracts with repair companies whereby Defendant paid them a one-time amount
6 regardless how many times the Refrigerators had to be repaired. Defendant's behavior
7 shows a conscious disregard for the rights of Plaintiff and the California Classes.

8 111. Defendant breached its express warranties, as set forth above, by selling
9 and supplying the products in conditions which did not meet the warranty obligations
10 undertaken by Defendant and by failing to adequately repair the products.

11 112. Defendant has received complaints and other notices from its customers
12 advising Defendant of the same problems that Plaintiff experienced with her Refrigerator.
13 Despite the notice and Defendant's knowledge, Defendant refused to honor its
14 warranties.

15 113. Even if notice was not given, or is somehow deemed defective, notice
16 should be excused because of Defendant's knowledge of the problems with the products
17 as alleged herein and because notice would have been and is futile as evidenced by
18 Defendant's policy and practice of not adequately repairing or replacing the products.

19 114. Plaintiff contacted Defendant regarding the problems with her refrigerator
20 and how it failed to operate as intended upon discovery of those problems. Thus,
21 Plaintiff provided timely notice of the breaches of warranty alleged herein pursuant to
22 California Commercial Code §2607(3)(A).

23 115. Plaintiff and the California Classes were intended third-party beneficiaries
24 of the expressed warranty made by Defendant. Defendant, who is the manufacturer of
25 the Model and the refrigerators that use the SCP and Ice System, knew that the retailers
26 to whom it sold these products to were not going to own the products any longer than it
27 took to sell them to Plaintiff and the California Classes. Further, Defendant intended the
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express warranty to be for the benefit of the Plaintiff and the California Classes, e.g. the consumers of the products.

116. As a proximate result of Defendant's breach of express warranty, Plaintiff and the California Classes have sustained damages and other losses in an amount to be determined at trial. Plaintiff and the California Class are entitled to recover damages pursuant to Civil Code §1794, including, attorneys' fees, rescission and other relief as is deemed appropriate. Plaintiff and the California Class are also entitled to an award of punitive damages.

FIFTH CAUSE OF ACTION

(By Plaintiff, individually and on behalf of the California Classes)

Breach of Implied Warranty under the Song Beverly Act Cal. Civ. Code §1790, et seq., Cal. Uniform Comm. Code §2314, and California Common Law

117. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the paragraphs stated above in this Complaint as though fully set forth herein.

118. Plaintiff, individually and on behalf of all persons similarly situated and the general public seeks recovery for Defendant's breach of the implied warranty.

119. Under California's Song-Beverly Consumer Warranty Act, Cal. Civ. Code §1792 *et seq.*, every sale of consumer goods is accompanied by both a "manufacturer's and retailer's" implied warranty that the goods are merchantable.

120. The refrigerator and the parts contained therein are “consumer goods” within the meaning of Cal. Civ. Code §1791(a).

121. Defendant is a “manufacturer” within the meaning of Cal. Civ. Code §1791(j).

122. Plaintiff and the California Classes bought the Model and/or the refrigerators with the SCP and Ice System at retail stores in the State of California.

123. At the time of sale, and currently, Defendant is in the business of manufacturing and selling refrigerators with the SCP and Ice System.

1 124. There is privity between Defendant, Plaintiff and the California Classes by
 2 Defendant's direct warranties and/or because Plaintiff and the California Classes were
 3 intended third-party beneficiaries of the implied warranty made by Defendant. Defendant
 4 knew that the retailers to whom it sold the refrigerators with the SCP and Ice System
 5 were not going to own the refrigerators any longer than it took to sell them to Plaintiff
 6 and the California Classes. Further, Defendant intended that the implied warranty that
 7 applied to the refrigerators was for the benefit of the Plaintiff and the California Classes.

8 125. By operation of law, Defendant impliedly warranted to Plaintiff and the
 9 California Classes that its Model, SCP, and Ice System were of merchantable quality and
 10 fit for the ordinary purposes for which they are intended and used. Defendant breached
 11 the implied warranty at the time of sale.

12 126. Defendant knowingly and/or recklessly sold the Model and refrigerators
 13 with the SCP and Ice System that were not fit for the ordinary purposes for which they
 14 were intended and used. As alleged herein, Defendant possessed actual superior
 15 knowledge that the Model, SCP, and Ice System did not work as intended. Defendant's
 16 waiver and/or limits on implied warranties are unconscionable, illegal, and
 17 unenforceable, since Plaintiff and the California Classes had no meaningful choice in
 18 determining those time limitations.

19 127. To the extent that Defendant may claim that it disclaimed the implied
 20 warranties under the Song Beverly Act, such disclaimer is invalid under California Civil
 21 Code §§ 1790.1, 1791.3, 1792.3 because there was no disclaimer provided that the
 22 Model, SCP, and/or Ice System were being sold "as is" or "with all faults."

23 128. To the extent that Defendant may now claim that it excluded or modified
 24 the implied warranties under the California Uniform Commercial Code, such waiver is
 25 invalid because it was not conspicuous as required by California Uniform Commercial
 26 Code § 2316(2). Plaintiff was not made aware of any waiver of implied warranties at the
 27 time of her purchase of the refrigerator. The manual for the refrigerator was packed
 28 inside the refrigerator box and was not provided to her until after her purchase of the

refrigerator. There was no posting of any warranty disclaimer on the refrigerator and no one mentioned any warranty disclaimer at the time of the purchase.

129. Plaintiff was not provided the option to purchase additional warranty coverage from Defendant at the time of purchase. It was only until Plaintiff contacted Defendant that Defendant offered their LG Premium Repair and Protect to extend the limited one year express warranty for up to three additional years. Plaintiff and the California Classes had no way to obtain additional coverage for the warranties of the merchantability or fitness of the Model, SCP, or Ice System for a particular purpose from Defendant. Further, Defendant refused to honor its express warranty because it refused to adequately repair or replace the refrigerator.

130. Plaintiff did not have the option of purchasing another refrigerator with the same space, layout, design, lighting, features, SCP, Ice System, or look as the one available from Defendant. Plaintiff is informed and believes that Defendant patents its products so that others cannot copy them.

131. As a proximate result of Defendant's breach of implied warranty, Plaintiff and the California Classes have sustained damages and other losses in an amount to be determined at trial. Plaintiff and the California Classes are entitled to recover damages and attorneys' fees as provided by statute, as well as costs, rescission, and other relief as is deemed appropriate.

132. Plaintiff and the California Classes also seek punitive damages since Defendant acted with malice, oppression and fraud in performing the conduct set forth above.

SIXTH CAUSE OF ACTION

(By Plaintiff, individually and on behalf of the Classes against Defendant)

Violations of the Magnuson-Moss Warranty Act (15 U.S.C. §§2301, *et seq.*) – Breach of Written Warranty

133. Plaintiff hereby restates, re-alleges, and incorporates by reference herein the paragraphs stated above in this Complaint as though fully set forth herein.

134. Plaintiff, individually and on behalf of all similarly situated members of the Classes, and the general public seeks recovery for Defendant's breach of written warranty under the laws of the Magnuson-Moss Warranty Act.

135. The Refrigerators are “consumer products” as that term is defined under 15 U.S.C. §2301(3).

136. Plaintiff and the members of the Classes are “consumers” as that term is defined by 15 U.S.C. §2301(3), and utilized the Model, SCP, and Ice System for personal and household use and not for resale or commercial purposes.

137. Defendant is a “warrantor” and “supplier” as those terms are defined by 15 U.S.C. §2301(4) and (5).

138. Defendant provided Plaintiff and the Classes with “written warranties” as that term is defined by 15 U.S.C. §2301(7).

139. In its capacity as warrantor, and by the conduct described herein, any attempt by Defendant to limit the warranties in a manner that is not permitted by law.

140. By Defendant's conduct as described herein, Defendant has failed to comply with its obligations under its written and implied promises, warranties, and representations.

141. Plaintiff and the Classes fulfilled their obligations under the Warranties.

142. As a result of Defendant's breach of warranties, Plaintiff and the Classes are entitled to revoke their acceptance of the Model, SCP, and Ice System, obtain damages, punitive damages, equitable relief, and attorneys' fees and costs pursuant to 15 U.S.C. §2301.

PRAYER FOR RELIEF

WHEREFORE Plaintiff and the Classes pray for judgment against Defendant as follows:

1. An order certifying that the action may be maintained as a class action as defined herein;

2. For all recoverable compensatory, punitive, and other damages sustained by Plaintiff and the Classes;
 3. For all actual and/or statutory damages for injuries suffered by Plaintiff and the Classes in the maximum amount permitted by applicable law.
 4. An order requiring restitution of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations.
 5. For statutory pre-judgment and post-judgment interest on any amounts;
 6. For an order enjoining Defendant wrongful, unlawful, fraudulent, deceptive, and unfair conduct as set forth above and to require Defendant to engage in a corrective notice campaign;
 7. For payment of reasonable attorneys' fees pursuant to, *inter alia*, California Code of Civil Procedure §1021.5;
 8. For costs of suit;
 9. For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATED: July 12, 2017

CALLAHAN, THOMPSON, SHERMAN & CAUDILL, LLP

By s/Robert Thompson
ROBERT W. THOMPSON
Attorneys for Plaintiff
**CYNTHIA KAO, individually and on
behalf of the Classes**